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## REVIEWS

BIZZELL, WILLIAM BENNETT. *Judicial Interpretation of Political Theory*. Pp. v, 273. Price, \$1.50. New York: G. P. Putnam's Sons, 1914.

Party conviction has always been "recognized as an essential qualification for the supreme bench in addition to legal learning and public service." In substantiation of this general observation, the author, in his introduction, points out that "only ardent supporters of a strong federal system were elevated to the bench by Washington and Adams." Unanimity in the early opinions herein finds its explanation. The only apparent exception to the conclusion that party conviction was an essential qualification to a position on the supreme bench the author finds to be in the offer of the chief justice-ship to Patrick Henry by President Washington in the fall of 1795-96, despite the fact that Henry had been the ablest and most influential opponent of constitutional ratification in Virginia.

The volume reviews the partisan character of many leading cases, including such typical instances as *Hepburn v. Griswold*, a reversal by the supreme court for which political influence has been held responsible, and the "decisions in the insular cases and the decisions growing out of the Inter-State Commerce Act" which have "carried loose construction to its ultimate limit."

Criticisms of the supreme court have been made from the time of the earlier cases on the power of the courts to declare congressional acts unconstitutional, through the *Dred Scott* case, the prize cases, the legal tender cases, the income tax decisions, to the criticism of the Democratic platform of 1904 in which the Republican party is held responsible for forcing "strained, unnatural constructions upon the statutes by virtue of its control of the judiciary."

The respective chapters include intimate and thorough-going discussions of the judicial power over legislative enactments: theory of constitutional construction; nature of the federal Union; imperialism *v.* expansion; the theory of internal improvements; the theory of the United States bank; the theory of legal tender; the theory of a protective tariff; the theory of an income tax; the theory of direct legislation; and the theory of the recall of judicial decisions. Of these important and far-reaching problems of our national life, the constitutionality of internal improvements and the constitutionality of the recall of judicial decisions only have not been officially determined by the supreme court of the United States.

The volume contains few new facts but it does contain an interesting array of facts, cogently put and interestingly related. "The courts have been able to settle the metes and bounds of practically every [party] issue considered, with the exception of that of slavery." The author extols the "supreme confidence" that the American people have imposed in their federal courts, and finds that "it is fortunate that this confidence exists for it insures the country against riots and civil strife, resulting from heated debate and party antagonism."

The volume is valuable because it brings together the legal and constitutional phases of the most prominent planks in partisan platforms, and

indicates through its every page the close relation between the federal judicial tribunals and the solution of political, social and economic problems.

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BÜLOW, PRINCE BERNHARD VON. *Imperial Germany*. (Trans. by Marie A. Lewenz). Pp. 342. Price, \$3. New York: Dodd, Mead and Company, 1914.

In this book the ex-chancellor of the empire has given a notable interpretation from a strictly personal point of view of the recent political life of Germany. About one-third of the book is devoted to "foreign policy" and the remainder to "home policy." After a brief survey of the political progress which culminated in the empire, the author proceeds to analyze the various steps which led to Germany's taking a prominent part in international politics—the acquisition of colonies, the alliances and the building of the navy. He divulges the "secret" that only by the most energetic efforts was the government able to wrest from the people consent to accept the burdens involved in the frequent increases of army and navy. In an extended discussion of the relations between Germany and England, he points out that the conflict of interests is bound to be sharp, but never irreconcilable (he writes in 1913), provided Germany asserts herself firmly but keeps calm and cool and neither injures England nor runs after her. In the clear and frank discussion of other factors in the new foreign policy of Germany von Bülow shows that when he was the principal actor he understood to a high degree the realities of the situation. One is tempted to believe that had he continued in office until now the history of 1914 would have been quite different. The one unpleasant note is the ever recurring insistence of the duty of Germany to assert herself whenever her honor is threatened, even from a long distance. This nervous touchiness looks very much like a reflection of the apprehensiveness of a new country that is still uncertain of itself and is oversensitive about its own manners as well as about those of its neighbors.

The conservative bias of the author dominates the discussion of the home policy. Like all German conservatives he believes that the German people are fundamentally incompetent in political affairs and must be governed by authority. In support of this thesis he presents an interesting analysis of the German character, its love of doctrinaire theory, its particularistic tendencies, and its excessive interest in criticizing and fault-finding. Party spirit and party loyalty outweigh even love of country and make the Reichstag a very disagreeable body to do business with. An American wonders that he can complain of this spirit of criticism in view of the fact that in the German system the Reichstag is forbidden to do anything but criticize. As the cardinal principle of von Bülow's political doctrine is that Germany must be governed by authority, it follows that the present one-sided distribution of power between the Bundesrat and the people must not be changed, and that therefore the fight for strong imperial armaments, for a really imperial finance system and against social democracy must be kept up until success is attained.